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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 JAMES ANTHONY MORRIS,

No. CIV S-02-2491-FCD-CMK

12 Plaintiff,

13 vs.

ORDER

14 CHERYL PLILER, et al.,

15 Defendants.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se and in forma pauperis, bring this civil
18 rights action pursuant to 42 U.S.C. § 1983. On March 21, 2005, plaintiff filed with the court a
19 notice of change of address. Plaintiff's notice, however, was not served on defendants as required
20 by Federal Rule of Civil Procedure 5(a) and Eastern District of California Local Rule 5-135. On
21 March 28, 2005, the court ordered plaintiff to serve a copy of his March 21, 2005, notice of
22 change of address on defendants and to file a proof of service with the court within 15 days.
23 Plaintiff failed to comply and, on September 22, 2005, the court directed plaintiff to show cause
24 within 30 days why this action should not be dismissed for lack of prosecution and failure to
25 comply with rules and court orders.

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1 On October 5, 2005, plaintiff filed a response to the court's September 22, 2005,
2 order to show cause, and also filed a notice of change of address. A review of the notice of
3 change of address reflects that it was properly served on defendants. In his response to the order
4 to show cause, plaintiff states that he had recently been taking strong medications and that this
5 accounted for the problems outlined above regarding service of the original notice of change of
6 address. Good cause appearing therefor, the September 22, 2005, order to show cause will be
7 discharged.

8 This matter has now been at issue for sufficient time that it may be ready to be set
9 for trial. The parties shall therefore each submit to the court and serve by mail on all other parties
10 a report on the status of this case. The report must address the following:

- 11 1. Whether this matter is ready for trial and, if not, why not;
- 12 2. Whether additional discovery is deemed necessary and, if so, the nature
13 and scope of the discovery and the time needed in which to complete it;
- 14 3. Whether a pretrial motion is contemplated and, if so, the type of motion
15 and the time needed to file the motion and complete the time schedule set forth in Local Rule 78-
16 230(m);
- 17 4. A narrative statement of the facts that will be offered by oral or
18 documentary evidence at trial;
- 19 5. A list of all exhibits to be offered into evidence at the trial of the case;
- 20 6. A list of the names and addresses of all witnesses the party intends to call;
- 21 7. A summary of the anticipated testimony of any incarcerated witnesses;
- 22 8. The time estimated for trial;
- 23 9. Whether either party still requests trial by jury; and
- 24 10. Any other matter, not covered above, which the party desires to call to the
25 attention of the court.

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1 The parties are warned that failure to file a status report which addresses the issues
2 set forth above may result in the imposition of appropriate sanctions, including dismissal of the
3 action or preclusion of issues or witnesses.

4 The parties are informed that they may, if all consent, have this case tried by a
5 United States Magistrate Judge while preserving their right to appeal to the United States Court of
6 Appeals. An appropriate form for consent to trial by a magistrate judge is attached. Any party
7 choosing to consent may complete the form and return it to the clerk of this court. Neither the
8 magistrate judge nor the district judge handling the case will be notified of the filing of a consent
9 form unless all parties to the action have consented.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The court's September 22, 2005, order to show cause is discharged;
- 12 2. Plaintiff's status report shall be filed and served within 30 days from the
13 date of service of this order;
- 14 3. Defendants' status report shall be filed within thirty days after service of
15 plaintiff's status report; and
- 16 4. The Clerk of the Court is directed to mail to all parties the form "Consent
17 to Proceed Before United States Magistrate Judge," together with the instant order.

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19 DATED: October 17, 2005.

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22 **CRAIG M. KELLISON**
23 UNITED STATES MAGISTRATE JUDGE
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